

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RUDOLFO HILBERT,

Plaintiff,

-against-

SUNBELT MEDICAL SERVICES, INC. and
AUDLEY W. BODDIFORD, JR.,

Defendants.

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Defendants, Sunbelt Medical Services Inc. and Audley W. Boddiford, Jr., [hereinafter “defendants”] petitioners for the removal of this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court, Southern District of New York, respectfully shows this Honorable Court:

FIRST: On May 10, 2022, plaintiff commenced an action against the named defendants in a Civil Action in the Supreme Court of the State of New York, County of Bronx, entitled:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
RUDOLFO HILBERT,

Plaintiff,

-against-

SUNBELT MEDICAL SERVICES, INC. and
AUDLEY W. BODDIFORD, JR.,

Defendants.

-----X

PETITION FOR REMOVAL

Jury Demanded
ECF Case

Index No.: 807163/2022E

A copy of the Summons and Verified Complaint is annexed hereto as **Exhibit “A”** and made a part hereof. Defendants joined issue by service of their Verified Answer, a copy of which is annexed hereto as **Exhibit “B”** and made a part hereof. Plaintiff served the foregoing Summons and Verified Complaint upon defendant Sunbelt Medical Services Inc., on or about May 31, 2022 [**Exhibit “C”**] and upon defendant, Audley W. Boddiford, Jr. on or about June 1, 2022 [**Exhibit “D”**]. Upon information and belief, the foregoing constitutes all process, pleadings and Orders allegedly served in the foregoing action.

SECOND: This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction in that there exists diversity of citizenship between the plaintiff and the defendants and the amount in controversy may exceed the sum of \$75,000.00 exclusive of interest and costs. Accordingly, there exists jurisdiction in the District Court of the United States as provided pursuant to 28 U.S.C. §1332.

THIRD: Under the provision of 28 U.S.C. §1441, the right exists to remove this civil action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, which embraces the place where this action is pending. In his complaint, plaintiff, Rudolfo Hilbert, seeks judgment as a result of personal injuries allegedly sustained on November 2, 2021, as a result of a motor vehicle accident on the Cross Bronx Expressway, Bronx, New York when his vehicle was allegedly struck by the vehicle operated by defendant, Audley W. Boddiford, Jr. and owned by defendant, Sunbelt Medical Services Inc..

FOURTH: The action involves a controversy between citizens of different States. Pursuant to plaintiff’s Summons, he was and is at the commencement of the action, a citizen of Bronx County, State of New York, residing at 1103 Ftely Avenue, Bronx, New York 10472 [**Exh.**

“A”]. The defendant, Audley W. Boddiford, Jr., is a resident of the State of Georgia with a residence address of 231 Spring Road, Sylvania, Georgia 30467-2960 [Exh. “D”; *see Commercial Driver’s License, State of Georgia Exhibit “E”*]. Defendant, Sunbelt Medical Services Inc. is a foreign Georgia Corporation with a principal place of business at 639 Vestal Road, Sardis, Georgia 30456-2155 [Exh. “C”]. Defendant, Sunbelt Medical Services Inc. is a privately wholly owned corporation.

FIFTH: Upon information and belief, plaintiff’s alleged amount in controversy will be claimed to be in excess of the \$75,000.000 threshold. Plaintiff’s Verified Complaint did not specify the amount of damages because under New York Civil Practice Law and Rules §3017(c), a plaintiff in a personal injury action in the Supreme Court of the State of New York is not permitted to assert the damage amount in the Verified Complaint. Accordingly, there exists original jurisdiction in the District Courts of the United States as provided pursuant to 28 U.S.C. §1332.

SIXTH: The instant petition is being filed within thirty (30) days of learning that the initiation and service upon the defendants of the within action [see Exh’s “C” and “D”] in accordance with Federal Rules of Civil Procedure §1446(b)(1). In any event, pursuant to Federal Rules of Civil Procedure §1446(c)(1), an action must be removed within one-year of the commencement of the case.

SEVENTH: In accordance with the requirements of 28 U.S.C. §1446, defendants attach herewith and incorporate herein by reference copies of the following items served in this action: a. Plaintiff’s Summons and Verified Complaint [Exh. “A”]; b. Defendants Verified Answer and Discovery Demands [Exh. “B”]; c. Affidavit of Service upon defendant, Audley W. Boddiford,

Jr. [Exh. "C"] and 4) Affidavit of Service upon defendant, Sunbelt Medical Services Inc. [Exh. "D"].

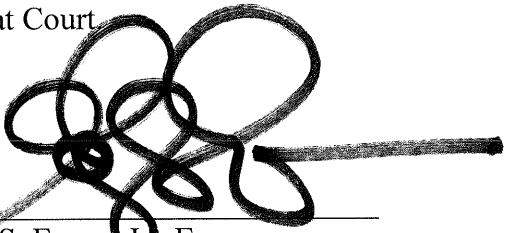
EIGHTH: By reason of the foregoing, defendants desire and are entitled to have this action removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York, such being the district where this suit is pending.

NINTH: Concurrent with the filing of service and petition for removal, defendants are serving this petition for removal upon plaintiff's counsel and filing a copy of the petition for removal with the Clerk of The Court for the Supreme Court of the State of New York, County of Bronx.

TENTH: Defendants hereby request a trial by jury of the within action.

WHEREFORE, defendants, Sunbelt Medical Services Inc. and Audley W. Boddiford, Jr., prays that the above-entitled action now pending against them in the Supreme Court of the State of New York, County of Bronx, be removed from that Court.

Dated: New York, New York
June 29, 2022



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